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SERVICE DATE - JULY 2, 1999

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC-F-20947]

Francis Tedesco, Mark Tedesco, Frank Tedesco Trust, Francis Tedesco Trust and Mark Tedesco Trust--Acquisition--Red Apple Transit, Inc., Hoboken Transportation Company, Inc., Willow Bus Line, Inc., and Agresta Bus Company, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Application.

SUMMARY: Applicants, Francis Tedesco, Mark Tedesco, Frank Tedesco Trust, Francis Tedesco Trust and Mark Tedesco Trust, noncarrier individuals who control several motor passenger carriers and a noncarrier, No. 22 Hillside Corp. (No. 22 Hillside), seek approval under 49 U.S.C. 14303 to acquire, through No. 22 Hillside, certain properties and the operating authorities of the following motor passenger carriers: Red Apple Transit, Inc. (Red Apple), Hoboken Transportation Company, Inc. (Hoboken), Willow Bus Line, Inc. (Willow), and Agresta Bus Company, Inc., d/b/a Red Apple Transit, Inc. (Agresta) (collectively referred to as the acquired carriers). Persons wishing to oppose the application must follow the rules at 49 CFR 1182. The Board has tentatively approved the transaction and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by August 16, 1999. Applicants may file a reply by August 31, 1999. If no comments are filed by August 16, 1999, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-20947 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, send one copy of comments to applicants' representative: Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005-3934.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695].]

SUPPLEMENTARY INFORMATION: Applicants directly control Academy Bus Tours, Inc. (Academy Bus),<sup>1</sup> Academy Express, Inc. (Academy Express),<sup>2</sup> Academy Lines, Inc. (Academy Lines)<sup>3</sup> (the Academy companies), Asbury Park Transit Lines (Asbury),<sup>4</sup> Commuter Bus Line, Inc. (Commuter),<sup>5</sup> and No. 22 Hillside. Under the proposed transaction, applicants will indirectly acquire, through No. 22 Hillside, certain properties and the interstate and New Jersey intrastate operating authorities of Red Apple,<sup>6</sup> Hoboken,<sup>7</sup> and Willow,<sup>8</sup> and the New Jersey intrastate operating authority of Agresta.<sup>9</sup>

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<sup>1</sup> Academy Bus holds federally issued operating authority in Docket No. MC-165004 to provide passenger service and other regular-route operations principally between New York City and various points in New Jersey, Pennsylvania, and New York, and to conduct nationwide special and charter operations.

<sup>2</sup> Academy Express holds federally issued operating authority in Docket No. MC-145482 to provide passenger service between New York City and various points in New Jersey and to conduct nationwide special and charter operations.

<sup>3</sup> Academy Lines holds federally issued operating authority in Docket No. MC-106207 to provide passenger service and other regular-route operations principally between New York City and various points in New Jersey and Pennsylvania and to conduct nationwide special and charter operations.

<sup>4</sup> Asbury holds federally issued operating authority in Docket No. MC-1002 to provide passenger service between New York City and various points in New Jersey and to conduct nationwide special and charter operations.

<sup>5</sup> Commuter holds federally issued operating authority in Docket No. MC-162133 to provide passenger service between New York City and various points in New Jersey and to conduct nationwide special and charter operations.

<sup>6</sup> Red Apple holds federally issued operating authority in Docket No. MC-182453 to provide passenger service between New York City and various points in New Jersey.

<sup>7</sup> Hoboken holds federally issued operating authority in Docket No. MC-54000 to provide passenger service between New York City and various points in New Jersey.

<sup>8</sup> Willow holds federally issued operating authority in Docket No. MC-240453 to provide passenger service between New York City and various points in New Jersey.

<sup>9</sup> Agresta holds intrastate operating authority to provide passenger service in New Jersey.

Applicants state that the aggregate gross operating revenues of the motor passenger carriers that they control exceeded \$2 million in calendar year 1998. Applicants also state that No. 22 Hillside will continue to provide the same operations that were provided by the acquired carriers; that applicants will incur no debt in their acquisition so there will be no increase in fixed charges; and that the employees of the acquired carriers will be offered the opportunity to apply for positions with the motor passenger carriers controlled by applicants.

Applicants submit that the proposed transaction will benefit the traveling public. According to applicants, the frequency of schedules will be increased, giving the public a greater choice of buses, and the schedules will be coordinated with those of the other Academy companies, reducing the need for transfers and making passenger service more convenient. Applicants also submit that their motor passenger carriers have regularly scheduled safety training programs and employ a full-time safety director to supervise their operations. They operate fleets of approximately 600 buses, cooperate to make volume purchases of fuel, tires and other supplies, and operate two large garages in Secaucus and Hoboken, NJ, where their buses routinely are inspected, repaired and maintained. In addition, applicants have access to financial resources and profess to possess management skills that will permit the operations by the acquired carriers to grow.

Applicants certify that: (1) the motor passenger carriers controlled by the applicants and Red Apple, Hoboken, and Willow hold satisfactory safety ratings from the U.S. Department of Transportation; (2) the carriers have the requisite liability insurance; (3) no carrier is domiciled in Mexico or owned or controlled by persons of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) the effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application.<sup>10</sup> If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

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<sup>10</sup> Under 49 CFR 1182.6(c), a procedural schedule will not be issued if we are able to dispose of opposition to the application on the basis of comments and the reply.

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This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed to be vacated.

3. This decision will be effective on August 16, 1999, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; and (2) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024.

Decided: June 28, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, Commissioner Burkes.

Vernon A. Williams  
Secretary